

GENERAL INFORMATION

Section 1-7.1-8 (Lobbying)

IMPORTANT NOTE: The requirements for lobbyists have changed with the enactment of Ordinance No. 11-26-592. Please review this information sheet along with the registration form, activity report, and instructions closely, as changes were made in a number of areas. **Transitional questions for lobbyists who registered under the former Lobbying Ordinance are addressed in Section VII below.**

SECTION I. REGISTRATION AS A LOBBYIST

What conduct qualifies as lobbying?

Lobbying is defined as:

1. Communicating in the presence of a County official or employee with the intent to influence any official action of that official or employee; or
2. Engaging in activities with the express purpose of soliciting others to communicate with a County official or employee with the intent to influence that official or employee. [Section 1-7.1-3]

Under what circumstances is registration required?

Unless exempted (see the next two questions and answers for a description of the exemptions), a person is considered a lobbyist and is required to register with the Ethics Commission if, during the calendar year, the person engages in lobbying and does one or more of the following:

1. Spends over \$2,500 in furtherance of this activity (excluding personal travel and subsistence expenses),
2. Is compensated over \$2,500 in connection with this activity, or
3. Spends \$100 or more cumulatively on gifts to or for officials or employees or their spouses or dependent children. [Section 1-7.1-8(A)]

The term “person” includes both individuals and business entities. [Section 1-7.1-3]

When is registration not required?

The following activities are exempt:

1. Professional services in drafting proposed legislation or advising clients on the construction and effect of proposed or pending legislation.
2. Appearances before the Board of County Commissioners at the Board's specific invitation or request, if the person engages in no further activities in connection with the passage or defeat of Board action.
3. Appearances before a County agency at the specific request of the agency, if the person engages in no further activities in connection with the passage or defeat of any agency action.
4. Appearances as part of the official duties of an elected or appointed official or employee of the State, a political subdivision of the State or the United States, to the extent that the appearance is not on behalf of any other entity.
5. Actions of a publisher or member of the news media, to the extent the actions are in the ordinary course of disseminating news or making editorial comment to the general public, if there is no further lobbying to directly and specifically benefit the economic, business or professional interests of the person or the person's employer.
6. Appearing before the Board of County Commissioners at the specific request of a registered lobbyist if the person notifies the Board that the person is testifying at the request of the lobbyist and performs no other lobbying.
7. Appearing before a County agency at the specific request of a registered lobbyist, if the person notifies the agency that the person is testifying at the request of the lobbyist and performs no other lobbying.
8. Representation of a bona fide religious organization solely for the purpose of protecting the right of its members to practice the doctrine of the organization.
9. Appearances as part of the official duties of an officer, director, member, or employee of an association engaged exclusively in representing counties and municipalities, to the extent that the appearance is not on behalf of another entity. [Section 1-7.1-8(B)]

What other exemption applies to employers of regulated lobbyists?

There is an additional limited exemption for employers of lobbyists. The exemption applies to an employer who compensates one or more lobbyists and who would otherwise be required to register and file reports, if the employer reasonably believes that all lobbying expenses will be reported by the lobbyists. (The employer must still provide the written authorization for the lobbyist to act.) If the employer's lobbyist fails to report required information, the employer immediately becomes subject to the registration and reporting requirements. [Section 1-7.1-8(C)]

What information must be provided in the registration?

Each registration must include the following information:

1. The lobbyist's full legal name, permanent address, business telephone number and occupation.
2. The full name, permanent address and business telephone number of any other lobbyist who will also be lobbying on the employer's behalf.
3. The name, permanent address, business telephone number and nature of the business on whose behalf the lobbyist acts, accompanied by a statement indicating whether the employer is exempt from registering because of the filing and reporting of a lobbyist.
4. The identity of any other person or entity whom the lobbyist will represent on the matters specified in the registration.
5. A description of the matters on which the lobbyist expects to act.
6. The period of time for which the registration is effective.

Each registration must also include written authorization of the employer for the lobbyist to act on the employer's behalf. [Section 1-7.1-8(D)]

What is the deadline for registration as a lobbyist?

A lobbyist who is not currently registered must register within five days after first performing an act that requires registration.

A lobbyist must file a new registration on or before January 1 of each year if, on that date, the regulated lobbyist continues to be engaged in lobbying on the same subject matter for the same employer. [Section 1-7.1-8(D)(1)]

Must the lobbyist register more than once during a reporting period?

A lobbyist must file a separate registration for each person or entity that has employed the lobbyist for lobbying purposes. [Section 1-7.1-8(E)]

When is the registration terminated?

Generally, the registration terminates on December 31 of the year in which the registration was filed or at the end of the period stated in the registration. However, a lobbyist may terminate the registration sooner by ceasing all activities that require registration, notifying the Ethics Commission and filing all reports required within thirty days after filing the notice of termination. [Section 1-7.1-8(F)]

SECTION II. WRITTEN AUTHORIZATION TO LOBBY

When is a written authorization to lobby required?

A written authorization to lobby is required when a person or entity hires a lobbyist to lobby. The authorization is contained in Section 3 of the lobbying registration form. [Section 1-7.1-8(D)(2)(f)]

What information must be included in the written authorization?

The authorization must include the full legal name and signature of the employer and the period during which the lobbyist is authorized to act. [Section 1-7.1-8(D)(2)(f)]

Who must sign the written authorization when the employer is a business entity?

If a business entity employs the lobbyist, an authorized officer or agent, other than the lobbyist, must sign the authorization. [Section 1-7.1-8(D)(2)(f)]

Are any other signatures required on the authorization?

If, in addition to the lobbyist's employer, the lobbyist will also be acting on behalf of another person or entity on the same subject matter, that person or entity must also sign the authorization.

SECTION III. LOBBYING REPORTS

What is the time period covered in the report and when must the report be filed?

The report covers the lobbyist's lobbying activities for a six month period. The first report, for the period beginning January 1 through June 30, must be filed by July 31

each year. The second report, for the period beginning July 1 through December 31, must be filed by January 31 of the following year. [Section 1-7.1-8(H)(1)]

What information must be included in the report?

The report must include the following information:

1. A complete, current statement of the information required in the registration.
2. The total compensation paid to the lobbyist during the reporting period. If a prorated amount is reported as compensation, it must be labeled as prorated.
3. Expenditures on lobbying activities in each of the following categories:
 - a. Office expenses.
 - b. Professional and technical research.
 - c. Publications that expressly encourage other persons to communicate with County officials or employees.
 - d. Witnesses payments.
 - e. Food and beverages for County officials and employees.
 - f. Food, lodging and scheduled entertainment for County officials or employees at meetings in return for the official's or employee's participation on a panel or speaking formally at a meeting.
 - g. Other gifts to County officials or employees or their spouses or dependent children that were given as part of the lobbyist's lobbying activities.
 - h. Any other lobbying expenses.
 - i. Any gifts not already reported that have a cumulative value of \$75 or more that were given to an official, employee, or spouse or dependent child of the official or employee. [Section 1-7.1-8(H)(4) and (I)]

Who must sign the report?

If the lobbyist is an individual, the individual should sign the report. If the lobbyist is not an individual, the report must be signed by an authorized officer or agent of the regulated lobbyist. [Section 1-7.1-8(H)(3)]

SECTION IV. PROHIBITED CONDUCT

What conduct does the Ordinance prohibit?

A lobbyist may not engage in lobbying activities on behalf of another person or entity for compensation that is contingent on the enactment or defeat of any action by the Board of County Commissioners or the outcome of any County action. [Section 1-7.1-8(G)]

SECTION V. ENFORCEMENT

Who enforces Section 1-7.1-8?

The Frederick County Ethics Commission enforces Section 1-7.1-8. [Section 1-7.1-10]

What enforcement remedies and penalties are available to the Ethics Commission for violation of Section 1-7.1-8?

Lobbyists who fail to register in a timely manner or who are late in filing Lobbying Activity Reports may be assessed a late fee of \$10 for each late day. The maximum fine allowed is \$250. [Section 1-7.1-10(A)(2)]

The Ethics Commission may issue a cease and desist order against any person found to be in violation of Section 1-7.1-8. If a lobbyist does not comply with the cease and desist order, the Ethics Commission may seek a court order to compel compliance. [Section 1-7.1-10(A)(3) and (C)(1)]

The Ethics Commission is also authorized to require a lobbyist to file any additional reports or information reasonably related to the information the lobbyist must submit under the Ordinance. [Section 1-7.1-10(B)(2)(a)]

The Ethics Commission may impose a fine up to \$5,000 for each violation and suspend the registration of a lobbyist found to have knowingly and willfully violated Section 1-7.1-8 or who has been convicted of a criminal offense arising from lobbying activities. [Section 1-7.1-10(B)(2)(b) and (c)]

A person who knowingly and willfully violates Section 1-7.1-8 may be found guilty of a misdemeanor and, if convicted, is subject to a fine not to exceed \$1,000 or imprisonment up to one year, or both. If the person is a business entity, each officer and partner of the business entity who knowingly authorizes or participates in the violation may be found guilty of a misdemeanor and, if convicted, may be subject to the same penalties. [Section 1-7.1-10(F)]

SECTION VI. DEFINITIONS

How does the Ordinance define “compensation”?

Compensation means money or any other valuable thing, regardless of form, received or to be received by a person from an employer for services rendered. If lobbying is only a portion of a person’s employment, compensation means a prorated amount that is based on the time devoted by the person to lobbying compared to the time devoted to other employment activities. [Section 1-7.1-3]

Who is considered an “Official”?

An official includes a County Commissioner, an official appointed to a County position by the Board of County Commissioners, a County employee and a member of a County board or commission. [Section 1-7.1-3]

SECTION VII. TRANSITIONAL QUESTIONS FOR THOSE LOBBYISTS REGISTERED UNDER THE FORMER LOBBYING ORDINANCE

I am currently registered as a lobbyist through June 30, 2012. Do I need to re-register now?

You do not need to re-register right away. If you continue to engage in lobbying activities that require registration after June 30, 2012, you will need to submit a new registration for the second half of the 2012 calendar year. Thereafter, registration will be on a calendar year basis.

When will the first Lobbying Activity Report under the new Ordinance be required?

Anyone who is a registered lobbyist between July 1, 2011 and December 31, 2011 will need to file an Activity Report by January 31, 2012.

If you register for the first time between January 1, 2012 and June 30, 2012, your first Activity Report will be due by July 31, 2012.

Is there a fee for registering as a lobbyist?

There is no longer a registration fee.

SECTION VIII. MISCELLANEOUS

What is the effective date for the Ordinance?

The Ordinance became effective on November 17, 2011.

Are the registration forms and reports open for public inspection?

Generally, the registration forms and reports are open for public inspection and copying. However, if a report contains the name of a County Official or the name of a County Official's immediate family member, the Ethics Commission must keep the report confidential for sixty days. The Ethics Commission is required to give notice to the County Official within thirty days of the Ethics Commission's receipt of the report. The County Official has the right, within thirty days after receiving the notice, to submit a written exception to the inclusion in the report of the name of the County Official or immediate family member. [Section 1-7.1-8(J) and (O)]

The Ethics Commission will use the information provided in the activity reports to issue an annual report on lobbyist compensation and spending. [Section 1-7.1-8(N)]

Who should I contact if I have questions about the Ordinance, the registration form, the activity report or the instructions?

Questions should be directed to the Frederick County Ethics Commission in care of the Office of the County Attorney, Winchester Hall, 12 East Church Street, Frederick, Maryland 20701, 301-600-2913, or at fcec@frederickcountymd.gov.

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